

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSE HENRY GONZALEZ,
Individually and on behalf of all
others similarly situated,

AFFIDAVIT

Plaintiff,

-against-

Case No. 12-CV-3465 (BMC)

AUTO-CHLOR SYSTEM OF NEW YORK
CITY, INC., et. al.,

Defendants.

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STATE OF NEW YORK)

SS.:

COUNTY OF QUEENS)

RUBEN OCHOA, being duly sworn, deposes and says:

1. I have worked for AUTO-CHLOR SYSTEM OF NEW YORK CITY, INC. (hereinafter “Auto-Chlor”) for approximately 6 years, or since January, 2007.
2. When I began working for Auto-Chlor, my title was Salesperson and I still am a Salesperson. My duties as a Salesperson is to go out and solicit customers to rent our dishwashers.
3. The person who I reported to at Auto-Chlor when I first began and currently is Sam Villanueva (hereinafter “Sam”).
4. When I began working for Auto-Chlor, I was provided with approximately 4 uniforms, which consist of a button down shirt and slacks that have the Auto-Chlor logo on them. My uniforms are cleaned weekly by a company called Aramark. If my

uniform gets ratty or torn, Auto-Chlor replaces my uniform. I have never been charged for my uniform.

5. When I first started working for Auto-Chlor, I made \$14.42 per hour, plus commission. I currently make \$18.50 per hour, plus commission.

6. As far as benefits go, Auto-Chlor is very generous. In addition to my regular rate of pay, I also receive full medical benefits, paid sick time, holidays and vacation time. Not only that, but Auto-Chlor makes a contribution into a savings account for me every year and does not require me to match those funds, in addition to allowing me participate in profit sharing.

7. If I ever had a problem with my paycheck, I know that it is Auto-Chlor's policy that any discrepancy be reported to my boss, Sam, and I know that it would be taken care of immediately.

8. I am familiar with a former employee named Jose "Henry" Gonzales. I worked with Henry the whole time he was employed by Auto-Chlor. Since Henry was an Installer, he and I worked closely because he was responsible for installing machines in my customer's restaurants.

9. As far as I know, Henry worked "on call" and did not complain that he was not paid for his "on call" hours. In fact, all he did was complain about was that he didn't want to work "on call" and state that he did not want to work "on call" and didn't care about the fact that he would lose all that overtime pay if he didn't work "on call". In addition, he would often state that he wanted to get fired so that he could collect unemployment.

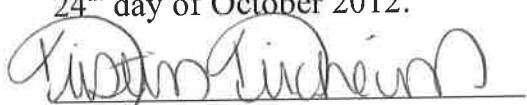
10. Many of my customers had issues with Henry. Henry would insist on doing things his way, rather than what the customer wanted. In our line of business, what the customer wants matters most. Henry would actually get angry with customers when they were unhappy with his services. Moreover, he would get angry with them when they refused to give him a tip or free food, even though he was not entitled to a tip! I would have customers call me and say things such as "who does this guy think he is, he expects me to feed him?"

11. After Henry's employment with Auto-Chlor terminated, he would contact me every once in a while to ask me to recommend his work to people who needed plumbing services. I would do this, to be nice, but eventually stopped because he was creating problems with my customers.



RUBEN OCHOA

Sworn to before me this
24th day of October 2012.



NOTARY PUBLIC

Kristin J Kircheim
Notary Public, State of New York
No. NYSKI 6241500
Qualified in Nassau County
Commission Expires May 23, 2015